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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

MATTHEW HOGAN,
Plaintiff,
v.
MATTHEW J. WEYMOUTH, et al.,
Defendants.

No. 2:19-cv-02306-MWF-AFMx

**NOTICE OF MOTION FOR AN
ORDER PROHIBITING
HARASSMENT BY DEFENDANT
MATTHEW J. WEYMOUTH;
MEMORANDUM**

Hearing: Mon., June 10, 2019, 10:00 a.m.
Before: Hon. Michael W. Fitzgerald

NOTICE OF MOTION

TO ALL PARTIES:

PLEASE TAKE NOTICE that this motion will be heard on Monday, June 10, 2019, at 10:00 a.m., in Courtroom 5A, First Street Courthouse, 350 West First Street, Los Angeles, California 90012.

Plaintiff Matthew Hogan moves for an order prohibiting defendant Matthew J. Weymouth from harassing Hogan, including by: (a) intimidating, molesting, attacking, striking, stalking, threatening, assaulting, hitting, or abusing him, destroying his personal property, or disturbing his peace; (b) contacting him, either directly or indirectly, in any way, including but not limited to, in person, by telephone, in writing, by public or private mail, by e-mail, by text message, by social media, or by other electronic means;

(c) taking any action to obtain his address or location; or (d) coming within 50 yards of him or his home, vehicle, or workplace.

This motion is made on the grounds that Weymouth has made credible threats of violence against Hogan. *See* Cal. Civ. Proc. Code § 527.6(b)(2), (b)(3), (d).

If Mr. Weymouth does not attend the hearing, the Court may make orders against him that could last up to five years. Cal. Civ. Proc. Code § 527.6(n).

MEMORANDUM

Weymouth has made credible threats of violence against Hogan. This is unlawful harassment under section 527.6. An order prohibiting the harassment is thus mandatory. Cal. Civ. Proc. Code § 527.6(i)

Facts

On February 3, Hogan and Weymouth were both in Atlanta attending Super Bowl LIII as spectators. (Hogan Decl. ¶¶ 1–3.) Weymouth was angered by a text message from Hogan and responded with over thirty threatening text messages, such as: “Hey seriously don’t let me see you”; “Ok bro I’m coming for you”; and “If I see you I’m going to jail and I don’t care.” (Hogan Decl. ¶¶ 4–5, Ex. A.) Weymouth also sent photos as proof that he was searching for Hogan. (Hogan Decl. ¶ 5, Ex. A at 2–3.) On February 6, social media posts were published that portrayed Hogan in a false and offensive light and disclosed Hogan’s Instagram address, all resulting in harassing and threatening messages to Hogan and harassing and threatening comments about him. (Hogan Decl. ¶¶ 6–7, 9.) Hogan believed that Weymouth was responsible for those posts, and still does. (Hogan Decl. ¶¶ 8, 10–11.) Weymouth’s threats and other harassing conduct puts Hogan in fear for his safety, particularly in this lawsuit’s wake. (Hogan Decl. ¶¶ 8, 10–11.)

Argument

Section 527.6 of the California Code of Civil Procedure was enacted “to provide expedited injunctive relief to victims of ‘harassment.’” *Schraer v. Berkeley Prop. Owners’ Ass’n*, 207 Cal. App. 3d 719, 730 (1989). The section allows “[a] person who has suffered harassment,” as the section defines it, to seek an order prohibiting

1 harassment. Cal. Civ. Proc. Code § 527.6(a). “Harassment” is defined, as relevant here,
2 as “a credible threat of violence.” Cal. Civ. Proc. Code § 527.6(b)(3). “Credible threat of
3 violence,” is defined as “a knowing and willful statement or course of conduct that would
4 place a reasonable person in fear for his or her safety . . . and that serves no legitimate
5 purpose.” Cal. Civ. Proc. Code § 527.6(b)(2). After the hearing,¹ if the Court “finds by
6 clear and convincing evidence that unlawful harassment exists, an order *shall* issue
7 prohibiting the harassment.” Cal. Civ. Proc. Code § 527.6(i) (emphasis added).

8 Here, Weymouth made direct threats of violence against Hogan, including: “Hey
9 seriously don’t let me see you”; “Ok bro I’m coming for you”; and “If I see you I’m
10 going to jail and I don’t care.” (Hogan Decl. ¶¶ 4–5, Ex. A.) These and other statements
11 by Weymouth would put a reasonable person in fear for his safety and they serve no
12 legitimate purpose. *See* Cal. Civ. Proc. Code § 527.6(b)(2). Unlawful harassment against
13 Hogan therefore exists and an order must be issued prohibiting Weymouth from
14 harassment. *See* Cal. Civ. Proc. Code § 527.6(i).

15 In addition, Weymouth sent Hogan repeated text messages, with photos,
16 threatening and claiming to be searching for him. Weymouth also may be responsible for
17 social media posts that provoked others to make comments or send messages that were
18 threatening and harassing against Hogan. This course of conduct against Hogan would
19 put a reasonable person in fear for his safety and served no legitimate purpose. *See* Cal.
20 Civ. Proc. Code § 527.6(b)(2). It constitutes a credible threat of violence and, thus,
21 harassment under section 527.6. This course of conduct is an independent basis that a
22 restraining order against Weymouth is mandatory. *See* Cal. Civ. Proc. Code § 527.6(i).

23 An order prohibiting harassment under section 527.6 may include, among other
24 things, “An order enjoining a party from harassing, intimidating, molesting, attacking,
25 striking, stalking, threatening, sexually assaulting, battering, abusing, telephoning,
26

27 ¹ A court generally must allow live testimony and an opportunity for cross-examination at
28 the hearing. Cal. Civ. Proc. Code § 527.6(i); *Schraer*, 207 Cal. App. 3d at 732.

1 including, but not limited to, making annoying telephone calls, as described in Section
2 653m of the Penal Code, destroying personal property, contacting, either directly or
3 indirectly, by mail or otherwise, or coming within a specified distance of, or disturbing
4 the peace of, the petitioner.” Cal. Civ. Proc. Code § 527.6(b)(6)(A). It may also include
5 “An order enjoining a party from specified behavior that the court determines is
6 necessary to effectuate” the listed orders. Cal. Civ. Proc. Code § 527.6(b)(6)(B).

7 In state court, the order must use the form adopted by the Judicial Council of
8 California pursuant to the section. Cal. Civ. Proc. Code § 527.6(x). But for this Court, the
9 form is optional, because federal courts sitting in diversity apply federal procedural law.
10 *Erie R.R. v. Tompkins*, 304 U.S. 64, 73 (1938). Mr. Hogan is lodging a proposed order
11 using the form in case the Court either chooses to use it or finds it instructive in preparing
12 its own order. Mr. Hogan is also lodging a proposed order on regular pleading paper.

13 CONCLUSION

14 Because Weymouth made credible threats of violence against Hogan, the Court
15 must grant this motion and issue an order prohibiting harassment by Weymouth.

16 DATED: May 6, 2019

17 THE INTERNET LAW GROUP

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19 /s/ Richard A. De Liberty
20 Richard A. De Liberty
21 Attorneys for Plaintiff
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